

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

PATRICIA S. WHEELER,)	CASE NO. 8:04CV497
)	
Plaintiff,)	
)	ORDER FOR FEES
v.)	UNDER 42 U.S.C. § 406(b)
)	
JO ANNE B. BARNHART,)	
Commissioner, Social Security Admin.)	
)	
Defendant.)	

This matter is before the Court on Plaintiff's Motion for Attorney Fees and Costs under 42 U.S.C. § 406(b) (Filing No. 24). The Defendant has filed a response indicating that the Commissioner does not contest the payment of attorney fees under 42 U.S.C. § 406(b) in this case in the amount of \$9,478.00. Both the Plaintiff and Defendant acknowledge that if fees are awarded under the Equal Access to Justice Act ("EAJA") and 42 U.S.C. § 406(b), then it is the responsibility of Plaintiff's counsel to refund to the Plaintiff the lesser of the fees awarded. The Court has reviewed the record, including but not limited to the Declaration of Plaintiff's counsel (Filing No. 24) and the Declaration of Plaintiff (Filing No. 31), and the Court finds the amount requested of \$9,478.00 for 23.4 hours of work in this case representing an hourly rate of \$405.04 per hour is reasonable and appropriate. Accordingly,

IT IS ORDERED:

1. The Plaintiff's Motion for Attorney Fees and Costs under 42 U.S.C. § 406(b) (Filing No. 24) is granted;
2. Plaintiff is entitled to attorney fees under 42 U.S.C. § 406(b) in the amount of \$9,478.00; and

3. Plaintiff is required to refund to the Plaintiff the lesser of the fees awarded in this case, namely the EAJA fees, in the amount of \$3,766.75.

DATED this 6th day of April, 2006.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge